

Appln. No. 10/804,306

Attorney Docket No. 6709-169

IV. Remarks

Claims 1 through 20 are pending in the application. Claims 1, 9 and 16 have been amended. Claims 8 and 15 have been canceled. No new claims have been added.

Rejections Under 35 U.S.C. §112

Claims 1 through 8 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner noted that the recitation regarding the first and second flanges was indefinite. Such recitation has been amended to correct the Examiner's basis of rejection and improve the clarity of the claim. Independent claims 9 and 16 were reviewed for the same deficiency. Such claims recite limitations regarding the flanges somewhat differently and it is thus submitted that revisions of a similar nature to claims 9 and 16 are unnecessary.

Rejections Under 35 U.S.C. §103

Claims 1, 2, 4, 5, 7 8, 16 through 18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover.

Nowosiadly teaches a molding for use in a motor vehicle comprising a generally U-shaped weatherstrip having a first longer leg which includes a lower latch and generally parallel flanges and a shorter leg which includes a show surface. Between the longer and shorter legs is a cavity which receives an upstanding panel or edge of a vehicle body or door. The Nowosiadly molding neither teaches nor suggests the use of a show layer nor does it teach or suggest a show layer of a body matching color. Nowosiadly likewise does not teach the disposition of a third flange on the molding body which is engageable with an end of one of the two other flanges. This third flange is described by Applicants as a "hider flange" 54 which extends toward the upper flange 46 and cooperates to close off an interior region 56 between the upper flange or lip 46 in the adjacent portion of the body.

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The Nowosiadly reference was combined with United States Patent No. 6,023,888 to Dover to, allegedly render the subject claims obvious and therefore unpatentable.

Dover discloses a weatherstrip, i.e., that portion of a door or window seal which engages three sides of moveable window glass (column 3, lines 6 through 8). As Dover further states, the fourth side of the window glass is sealed by a belt line seal. Such belt line seal is frequently referred to as a belt strip and is in fact the type of seal disclosed in Nowosiadly.

Dover teaches an S-shaped seal having a first cavity which receives a depending flange to which the seal is secured and a second larger cavity which receives a resilient window engaging sealing insert 30. The window insert includes flexible sealing members 62,64 which engage both faces of the moveable window glass 24. Dover is relied upon by the Examiner for its disclosure, in column 4 at lines 36 through 38 of "A second flexible strip [which] forms the projection 50 and interior facing surfaces 51 of the channel seal. The interior facing surface 51 can be colored to match the interior of the vehicle." This disclosure does not cure the defects of the Nowosiadly reference and the rejection of the subject claims on the Nowosiadly and Dover references is not well taken.

First of all, Nowosiadly teaches a molding which is clearly a belt strip, i.e., that weatherstrip or molding feature which is disposed at the lower portion of a window opening between the window glass and the vehicle body. Dover, on the other hand teaches a weatherstrip which, as quoted above, engages the three sides of the moveable window glass. It is quite simple to differentiate these two configurations as the first engages only a single, i.e., the outer, face of a window glass (see Figure 8 of Nowosiadly) and the second engages both the inner and outer faces of the glass (see Figure 2 of Dover). Thus, at the outset, combining the two disclosures under the rubric of a weatherstrip in fact ignores the distinct structure and purpose of the two disclosures which are acknowledged to be separate devices.

Second of all, the Examiner asserts that Dover cures the defects of Nowosiadly regarding its lack of teaching of the show layer. Dover in fact provides no such cure. Dover only teaches the use of an interior facing surface 51 which can be colored to match the interior of the vehicle. Thus, not only are the disclosures of

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Nowosiadly and Dover related to distinct products, i.e., a belt strip and a weather strip, but Dover teaches that the interior facing surface which may be of a flexible TPE may be colored to match the interior of the vehicle. There is no statement or suggestion with regard to the matching the exterior color of the vehicle on a belt strip. The references are bereft of reason why a skilled artisan, confronted with the same problems of the inventor herein, would select the elements from the cited prior art references or combine them in the matter claimed. See In re Rouffet, 47 U.S.P.Q.2d 1453 (Fed. Cir. 1998).

Finally, Applicants have amended claims 1 and 16 to further characterize the invention as including a third projection or hider flange which engages one of the first and second flanges to close off an adjacent area. While Figure 8 of Nowosiadly discloses what appears to be a third flange, it is in fact a spacer (See column 5, line 65) which includes a bumper 243 which spaces the window 204 from the molding 210 (See column 6, lines 11 through 13). Thus, the spacer 226 is not a flange like or similar to the wiping flanges 206 and 208 nor is it like the flanges claimed by Applicant. Thus, this claim revision regarding the third flange further supports patentability of independent claims 1 and 16 and the claims which depend therefrom.

Claim 8 which the Examiner alleges is anticipated by the two cited references has been canceled.

For all of the foregoing reasons, it is submitted that claims 1, 2, 4, 5, 7, 16 through 18 and 20 are patentable when 35 U.S.C. §103(a) is properly applied and should be allowed.

Claims 9, 10, 12, 14 and 15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover and Vance.

Nowosiadly and Dover has been discussed and distinguished above and such text is specifically incorporated herein by reference. Beyond such incorporation, the rejection on the Vance reference is not fully understood.

First of all, there are two Vance references of record in the present prosecution and the rejection does not explain which is being utilized in the rejection of claims 9, 10, 12, 14 and 15. The undersigned attempted to determine which of the two Vance references was being utilized in the rejection by carefully studying it, but then realized that the rejection was a essentially the same as the rejection

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presented with regard to claims 1, 2, 4, 5, 7, 8, 16 through 18 and 20, which does not rely upon a Vance reference. Thus, it appears that the discussion with regard to Nowosiadly and Dover as well as the cancellation of claim 15 allegedly anticipated by Nowosiadly in view of Dover presented above is fully responsive to the rejection of claims 9, 10, 12, 14 and 15 supported by Nowosiadly and Dover. Finally, independent claim 9 was revised in a manner similar to that undertaken with regard to claims 1 and 16, that is, an additional limitation was added with regard to the hider flange. This added limitation further supports patentability of claim 16 and those claims dependent thereon.

Claims 3, 6, and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nowosiadly in view of Dover as applied to claims 1, 2, 4, 5, 7, 8, 16 through 18 and 20 above, and further in view of Belser et al.

Nowosiadly and Dover have been discussed and distinguished above and such text is herein incorporated by reference. Belser et al. teach a belt strip and method of making same which includes an elongate ridge or metal insert 22, a first body portion 24 and a second body portion 26. The second body portion 26 includes a lip 28 which is directed toward the vehicle window 14 and includes flocking 30. Thus, with regard to claim 3, Belser et al. teach away from the claim. With regard to claims 6 and 19, whereas the disclosed layer of Belser et al. appears to be within the 500 micron thickness limit of claims 6 and 19, Belser et al. teach a laminated film of polyethylene terephthalate, FLUOREX® and a layer of polypropylene. Thus, Belser et al. again teaches away with regard to both the particular materials and their mechanical configuration. Thus, Belser et al. do not cure the defects of Nowosiadly and Dover and claims 3, 6 and 19 are patentable.

Claims 11 and 13 were rejected under 35 U.S.C. §103(a) as 9, 10, 12, 14, and 15 above, and further in view of Belser et al.

The Nowosiadly, Dover and Belser et al. references have all been discussed above and such discussion is hereby incorporated by reference. Claim 11 again recites that the portion of the weatherstrip member in contact with the motor vehicle body includes flocking. Belser et al. disclose no such flocking arrangement but rather utilizes it on a component which engages the glass window. When combined with the other references, Belser et al. clearly does not support a rejection of claim

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11. With regard to claim 13, although Belser et al. appears to be within the 500 micron thickness limit, the three layer sandwich of Belser et al. teaches away from the thermoplastic polyolefin single layer of claim 13. Accordingly, Belser et al. does not cure the defects of Nowosiadly and Dover. Hence, claims 11 and 13 recite patentable subject matter under a proper interpretation of 35 U.S.C. §103(a) and should be allowed.

SUMMARY

Pending Claims 1 through 7, 9 through 14 and 16 through 20, as amended are patentable.

Entry of this Amendment under the provisions of 37 C.F.R. §1.116 in order to conclude prosecution of this patent application or place this application in better form for consideration on appeal is requested.

Applicants respectfully request the Examiner grant early allowance of these claims. The Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

April 25, 2006
Date

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